

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Plus 1C Contracts (MC2012-6)
Negotiated Service Agreement

Docket Nos. MC2012-6
CP2012-12
CP2012-13

PUBLIC REPRESENTATIVE COMMENTS ON REQUEST OF
THE POSTAL SERVICE TO ADD GLOBAL PLUS 1C TO THE
COMPETITIVE PRODUCTS LIST AND NOTICE OF FILING
TWO FUNCTIONALLY EQUIVALENT GLOBAL PLUS 1C
NEGOTIATED SERVICE AGREEMENTS

(January 17, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1112.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Request to add Global Plus 1C to the competitive products list and its Notice of filing two functionally equivalent Global Plus 1C negotiated service agreements.²

Prices and classifications "not of general applicability" for Global Plus 1 contracts were previously established by Governors' Decision No. 08-8.³ In Order No. 85, the Commission authorized the addition of the Global Plus 1 product to the competitive product list and determined that the Global Plus 1 contracts filed in Docket Nos. CP2008-9 and CP2008-10 should be included within the product.⁴ The Commission

¹ PRC Order No. 1112, Notice and Order on Request Concerning Global Plus 1C Contracts, January 6, 2012.

² Request of the United States Postal Service to Add Global Plus 1C to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 1C Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, January 4, 2012 (Request).

³ See Decision of the Governors of the States Postal Service on the Establishment of Prices and Classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, May 28, 2008, filed as an attachment to Notice of United States Postal Service of Governors' Decision Establishing prices and Classifications for Global Plus Contracts, Docket No. CP2008-8, June 2, 2008.

⁴ PRC Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, Docket Nos. C2008-8, CP2008-9, and CP2008-10, June 27, 2008.

also determined that the Global Plus 1 contracts filed in Docket Nos. CP2009-46 and CP2009-47 should be included in the Global Plus 1 product.⁵ Subsequently, the Commission approved the Global Plus 1A and Global Plus 1B products, and included the contracts filed in Docket Nos. CP2010-67 and CP2010-68, and Docket Nos. CP2011-39 and CP2011-40, within those products, respectively.⁶

In this proceeding, the Postal Service requests the addition of the Global Plus 1C product to the competitive products list, and to include two Global Plus 1C contracts within the product. Request at 1 and 2. The Postal Service proposes to designate the Global Plus 1C contracts as new “baseline” agreements for future functional equivalency analyses. *Id.* at 2 and 4. The Postal Service also proposes that Global Express Guaranteed (GXG) and Commercial ePacket (CeP) be included as service offerings of the Global Plus 1C contracts, in addition to International Priority Airmail (IPA), International Surface Airlift (ISAL), Express Mail International (EMI) and Priority Mail International (PMI). *Id.* at 7.

The two Global Plus 1C contracts are scheduled to become effective on January 16, 2012, upon the termination of the Global Plus 1B contracts, and remain in effect until a day prior to the date “of any change in the published rates that affect the Qualifying Mail in the agreements that may fall within the month of January, 2013.” *Id.* at 5. If prices do not change during the month of January 2013, the contracts terminate on January 31, 2013. *Id.*

⁵ See PRC Order No. 265, Order Concerning Filing a Functionally Equivalent Global Plus 1 Contract Negotiated Service Agreement, Docket No. CP2009-46, July 31, 2009; *see also*, PRC Order No. 266, Order Concerning Filing a Functionally Equivalent Global Plus 1 Contract Negotiated Service Agreement, Docket No. CP2009-47, July 31, 2009.

⁶ See PRC Order No. 504, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreement, Docket Nos. MC2010-26, CP2010-67 and CP2010-68, July 30, 2010; *see also* PRC Order No. 622, Order Adding Global Plus 1B to the Competitive Product List and Approving Functionally Equivalent Global Plus 1B Contracts, Docket Nos. MC2011-7, CP2011-39, and CP2011-40, December 23, 2010.

COMMENTS

The Public Representative has reviewed the Postal Service's Request and the Statement of Supporting Justification (Attachment 3), the contracts, and the Postal Service's proposed revised text of the Mail Classification Schedule (MCS) for Global Plus Contracts. The Public Representative has also reviewed the supporting financial models filed separately under seal for each of the Global Plus 1C contracts that accompanied the Postal Service's Request. Based upon that review, the Public Representative concludes that the Global Plus 1C contracts satisfy the criteria of section 3642(b), concerning the classification of new competitive products, and comply with requirements section 3633(a), concerning rates for competitive products. In addition, the Public Representative believes that treatment of the instant functionally equivalent contracts as baseline agreements is appropriate.

Product Classification. Under 39 U.S.C. § 3642(b) the criteria governing Commission review are whether the product (1) qualifies as market dominant, (2) is covered by the postal monopoly and therefore precluded from classification as a competitive product, and (3) reflects certain market considerations, including private sector competition, the impact on small businesses, and the views of product users. With respect to the criteria of section 3642(b)(1) and (2), the Postal Service makes reasonable arguments that the instant Global Plus 1C contracts, which involve outbound international mail, are neither market dominant nor covered within the postal monopoly. Request at 8-9. The Statement of Supporting Justification provides information addressing the additional considerations listed in section 3642(b)(3). In addition, the Commission has previously classified the predecessor Global Plus 1A and 1B products as competitive. For these reasons, the Public Representative concludes that the Global Plus 1C product satisfies the criteria of section 3642(b) for classification as competitive and therefore the product should be added to the competitive products list.

Product Costs. Pursuant to 39 U.S.C. § 3633(a), the Postal Service must demonstrate that competitive product rates (1) do not result in market dominant products subsidizing competitive products, (2) ensure that each competitive product covers its attributable costs; and (3) enable competitive products as a whole to cover an appropriate share of the institutional costs of the Postal Service. In this proceeding, the Postal Service asserts that “these new Global Plus 1C contracts are in compliance with the requirements of 39 U.S.C. § 3633.” *Id.* at 9. The financial model accompanying the Postal Service’s Request indicates that the negotiated prices in the Global Plus 1C contracts should generate sufficient revenue to cover their respective costs.

However, the contract cost estimates are developed using FY 2010 cost information and other data presented in the FY 2010 International Cost and Revenue Analysis (ICRA) report.⁷ The resulting contract costs are then adjusted for estimates of future inflation. The use of cost information and other data from the FY 2010 ICRA, rather than cost information from the FY 2011 ICRA, to develop contract cost estimates suggests that such estimates are less certain and therefore less reliable as they are adjusted for inflation estimates for a period of more than two years: Quarter 1 of FY 2011, CY 2011, and the contract year, CY 2012. The Public Representative suggests that the Postal Service use cost information from the most recent ICRA in its financial models to develop contract cost estimates for future Global Plus contracts. Nevertheless, the Postal Service’s financial model supports a conclusion that the negotiated prices for the instant Global Plus 1C contracts should cover their estimated costs and therefore the product is compliant with section 3633(a).

Functional Equivalence. In its Request, the Postal Service explains that the instant Global Plus 1C contracts are the immediate successors to the Global Plus 1B contracts in Docket Nos. CP2011-39 and CP2011-40, and are concluded with the same customers. *Id.* at 1 and 4. However, the Global Plus 1C contracts are “distinct” from the Global Plus 1B contracts “because of the addition of Global Express Guaranteed

⁷ See Library Reference USPS-FY10-NP2, Docket No. ACR2010 Dec. 29, 2010; Revisions incorporated with Letter to the Commission, April 26, 2011.

(GXG) and Commercial ePacket (CeP)” as service offerings of the Global Plus 1 product.” *Id.* at 7.

The Postal Service also states that the Global Plus 1C contracts are “very similar except with respect to each customer’s identifying information and a limited number of terms in Article 17, paragraph 1, and Article 13, paragraph 1.” *Id.* at 6. The Postal Service maintains that these differences “do not affect the market characteristics of the Global Plus 1C product.” *Id.* It therefore asserts that the instant contracts are functionally equivalent. *Id.* at 1. The Postal Service also requests that the contracts be “considered new ‘baseline’ contracts for future functional equivalency analyses concerning the Global Plus 1 product.” *Id.* at 4.

The Public Representative agrees that these differences do not alter the conclusion that the two Global Plus 1C contracts are functionally equivalent. The two contracts should also serve as the “baseline” agreements for future tests of functional equivalency.

The Public Representative respectfully submits the foregoing comments for the Commission’s consideration.

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